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Attorneys for Defendant
HOME DEPOT U.S.A., INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

GABRIEL ORTIZ, ANDREW GONZALES,
LANDON MICKEY MILLER, AND JOE
HUYNH, on behalf of themselves and all
others similarly situated,

Plaintiffs,

v.

HOME DEPOT U.S.A., INC.,

Defendant.

Case No. C 09-03485 LHK

**STIPULATED REQUEST FOR AN
ADDITIONAL WEEK TO FILE CLASS
ACTION SETTLEMENT
AGREEMENT; [~~PROPOSED~~] ORDER**

[Fed. R. Civ. P. 26(f), Civ. L.R. 6-1(b), 6-2,
7-12.]

The Honorable Lucy H. Koh

1 On August 31, 2011, Plaintiffs filed their motion for preliminary approval of the proposed class
2 action settlement in this case and the parties filed a stipulated request for additional time until
3 September 7, 2011, to file the finalized and signed settlement agreement. *See* dkt. nos. 65 & 66.
4 Plaintiffs' motion accurately represents the content of the parties' draft written agreement currently
5 under final review by Home Depot's Office of General Counsel. *See* Allen decl. at ¶ 6. The motion is
6 unopposed and set for hearing on September 29, 2011.

7 On September 2, 2011, the Court approved the parties' stipulated request for an extension of
8 time to file the settlement agreement until September 7, 2011. *See* dkt. no. 71. However, due to
9 logistical reasons, final review by Home Depot's Office of General Counsel is not expected to be
10 complete until September 14, 2011. *See* Allen decl. at ¶ 5. Accordingly, in accordance with Civil
11 Local Rules 6-1(b) and 6-2(a), the parties request a brief additional extension to file the signed
12 settlement agreement on or before September 14, 2011, which is more than two weeks before the
13 schedule hearing date on the motion for preliminary approval. As stated above, the motion is
14 unopposed and the parties do not anticipate the filing of any further briefing, unless ordered by the
15 Court. Thus, the requested brief extension should not require rescheduling of the preliminary approval
16 hearing requested for September 29, 2011, and will not alter the date of any other hearing or
17 proceeding on the Court's calendar. *Id.* at ¶ 7; *see* Civ. Local R. 6-1(b).

18 On January 26, 2011, the Court issued a scheduling order modifying the pretrial schedule
19 originally set by the Honorable James Ware in his order of February 25, 2010. Dkt. no. 50. In addition
20 to the January 26, 2011 Case Management Order, the July 7, 2011 Stay Order, and the August 31, 2011
21 stipulated extension of time, the following time modifications have been made by the Court, upon
22 motion or by stipulation: (1) plaintiffs' motion for continuance of Case Management Conference (*see*
23 dkt. no. 10); (2) stipulation to extension of time for Defendant to file answer to amended complaint
24 (*see* dkt. no. 13); (3) stipulation to extend time for mediation (*see* dkt. no. 36); (4) stipulation to extend
25 time for taking Rule 30(b)(6) deposition (*see* dkt. No. 36); and (5) stipulation to extend time for expert
26 disclosures pertaining to class certification (*see* dkt. No. 58). *See* Allen decl. at ¶ 8.

1 A declaration from defendant's counsel William F. Allen in support of this stipulated request is
2 enclosed. *See* Civ. Local R. 6-2(a).

3 Dated: September 7, 2011.

4 THE LEGAL AID SOCIETY-EMPLOYMENT
LAW CENTER

5 SCHNEIDER WALLACE
6 COTTRELL BRAYTON
KONECKY LLP

7 /s/ Joshua Konecky
8 JOSHUA KONECKY

9 Attorneys for Plaintiffs
10 Gabriel Ortiz, Andrew Gonzales, Landon Mickey
Miller, and Joe Huynh

11 Dated: September 7, 2011.

12 AKIN GUMP STRAUSS HAUER & FELD LLP

13
14 /s/ Teresa W. Ghali
15 TERESA W. GHALI

16 Attorneys for Defendant
17 HOME DEPOT U.S.A., INC.

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22 **ECF CERTIFICATION**

23 Pursuant to General Order No. 45 X. (B), I attest that concurrence in the filing of this
24 document has been obtained from Joshua Konecky.

25 Dated: September 7, 2011.

26 /s/ Teresa W. Ghali
27 TERESA W. GHALI

DECLARATION OF WILLIAM F. ALLEN

I, William F. Allen, declare,

1. I am an attorney in good standing admitted *pro hac vice* to practice in the Northern District of California and am attorney of record for defendant Home Depot U.S.A., Inc. in *Ortiz v. Home Depot U.S.A., Inc.*, Case No. C 09-03485 LHK (N.D. Cal.). I make this declaration based on my own personal knowledge and, if called to do so, could and would competently so testify in court.

2. After two mediation sessions before the Honorable Edward A. Infante (ret.), and significant efforts and negotiations following those sessions, the parties reached an agreement on material terms, including provisions for class-wide equitable relief, monetary relief to the putative class members and named plaintiffs, and reasonable attorneys' fees and costs, subject to reaching a final agreement on all language of a class action settlement agreement.

3. On July 7, 2011, the parties filed a notice of settlement and jointly requested a stay of the pre-trial scheduling order to permit the parties time to draft a formal class action settlement agreement and the motion papers to present to the Court in connection with a motion for preliminary approval of the proposed agreement. *See* dkt. no. 63.

4. On July 7, the Court stayed the pre-trial schedule and ordered the parties to file a motion for preliminary approval by August 31, 2011, or prepare to file their class certification briefing on an expedited basis. *See* dkt. no. 64.

5. The full written agreement has been reviewed by defendant's counsel and is pending final review by Home Depot's Office of General Counsel. Due to logistical reasons, defendant expects final review and approval to be completed by no later than September 14, 2011.

6. On August 31, 2011, plaintiffs filed their motion for preliminary approval without a copy of the settlement agreement. Plaintiffs' motion accurately represents the content of the parties' draft written agreement currently under review by Home Depot's Office of General Counsel.

7. On September 2, the Court approved the parties' joint stipulated request for an extension of time to file the settlement agreement until September 7, 2011. *See* dkt. no. 71. The parties are requesting a brief additional extension of the deadline to supplement the motion for preliminary approval by filing the signed settlement agreement on or before September 14, 2011,

1 which is just over two weeks before the schedule hearing date on the motion for preliminary approval.
2 As stated above, the motion is unopposed and the parties do not anticipate the filing of any further
3 briefing, unless ordered by the Court. Thus, the extension will not alter the date of any hearing or
4 proceeding on the Court's calendar, including the September 29, 2011 preliminary approval hearing or
5 any other hearing or proceeding on the Court's calendar.

6 8. On January 26, 2011, the Court issued a scheduling order modifying the pretrial
7 schedule originally set by the Honorable James Ware in his order of February 25, 2010. Dkt. no. 50.
8 In addition to the January 26, 2011 Case Management Order, the July 7, 2011 Stay Order, and the
9 August 31, 2011 stipulated extension of time, the following time modifications have been made by the
10 Court, upon motion or by stipulation: (1) plaintiffs' motion for continuance of Case Management
11 Conference (*see* dkt. no. 10); (2) stipulation to extension of time for Defendant to file answer to
12 amended complaint (*see* dkt. no. 13); (3) stipulation to extend time for mediation (*see* dkt. no. 36); (4)
13 stipulation to extend time for taking Rule 30(b)(6) deposition (*see* dkt. No. 36); and (5) stipulation to
14 extend time for expert disclosures pertaining to class certification (*see* dkt. No. 58).

15 9. Plaintiffs' counsel Joshua Konecky has authorized defendant's counsel to sign the joint
16 stipulated request on plaintiffs' behalf.

17 I declare under penalty of perjury under the laws of the United States of America that the
18 foregoing is true and correct. Executed this 7th day of September, 2011, in Washington, DC.

19 /s/William F. Allen
20 William F. Allen
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1 The parties stipulate that they are prepared to file a class action settlement agreement in this
2 action by September 14, 2011.

3 PURSUANT TO THE PARTIES' STIPULATED REQUEST FOR AN EXTENSION OF
4 TIME, AND GOOD CAUSE SHOWN, IT IS SO ORDERED THAT:

5 Plaintiffs shall file the settlement agreement on or before September 14, 2011.

6 Additional extensions will be disfavored.

7 IT IS SO ORDERED.

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9 Dated: September 13, 2011

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12 THE HON. LUCY H. KOH
13 United States District Judge
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